



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8900

DEC 17 2004

Ms. LaJuana S. Wilcher, Secretary
Kentucky Environmental and Public Protection Cabinet
Capital Plaza Tower, 5th Floor
Frankfort, KY 40601

Dear Ms. Wilcher:

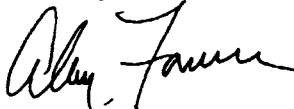

The U.S. Environmental Protection Agency (EPA) has completed review of the adopted revisions to Kentucky's water quality standards regulations (KWQSR) located in 401 KAR Chapters 5:002, 5:026, 5:029, and 5:031, which were submitted to EPA by letter dated September 23, 2004. The revisions were adopted by the Commonwealth on September 8, 2004, during the triennial review of water quality standards conducted by the Kentucky Division of Water (KDOW). Your letter also transmitted adopted revisions to KWQSR located in 401 KAR Chapter 5:030. EPA will respond to the revisions located in 401 KAR Chapter 5:030 and the definitions for "high quality water" and "use protected water" located in 401 KAR 5:002 under separate cover.

The revisions to KWQSR located in 401 KAR Chapters 5:002 [Definitions for 401 KAR Chapter 5], 5:026 [Designation of uses of surface waters], 5:029 [General provisions], and 5:031 [Surface water standards] were compared to the requirements of the Clean Water Act (CWA) section 303 and 40 CFR Part 131. These revisions include: changes to designated uses; prohibition of mixing zones for bioaccumulative chemicals or in areas where mixing zones may jeopardize endangered or threatened aquatic species; updated criteria for toxics to protect aquatic life and human health; and the addition of criteria for *Escherichia coli*. Please note that EPA approved the revisions to the designated use for the Nolin River, as listed in 401 KAR 5:026 Section 5(3), by letter dated September 30, 2004. Also, as stated above, action on the definitions for "high quality water" and "use protected water" located in 401 KAR 5:002 is deferred. EPA has determined that the remainder of the revisions to KWQSR located in 401 KAR Chapters 5:002, 5:026, 5:029, and 5:031 comply with the requirements of CWA section 303 and 40 CFR Part 131. Therefore, EPA approves these revisions for all purposes of the CWA pursuant to the Agency's authority under CWA section 303(c) and its implementing regulations at 40 CFR Part 131.

EPA's decision to approve these new and revised water quality standards is subject to the results of an ongoing consultation under Section 7 of the Endangered Species Act (ESA) with the U.S. Fish and Wildlife Service. By approving the standards "subject to the results of consultation," EPA retains its discretion to take appropriate action if the consultation identifies deficiencies in the standards requiring remedial action by EPA. EPA will notify Kentucky of the results of the Section 7 consultation upon completion of that action.

We would like to commend you and your staff for your continued efforts to protect and enhance Kentucky's waters during this triennial review. If you have any questions regarding EPA's action, please contact me at (404) 562-9470 or have a member of your staff contact Eve Zimmerman at (404) 562-9259.

Sincerely,

James D. Giattina, Director
Water Management Division

Enclosure

cc: David Morgan, KDOW
Tom Van Arsdall, KDOW